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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

RAYMOND RUDY PEREZ,

Defendant and Appellant.

E056163

(Super.Ct.Nos. INF065586,
INF10000013 & RIF10003210)

OPINION

APPEAL from the Superior Court of Riverside County. William S. Lebov, Judge.
(Retired Judge of the Yolo Super. Ct. assigned by the Chief Justice pursuant to art. VI,
§ 6 of the Cal. Const.) Affirmed.

Robert L.S. Angres, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Raymond Rudy Perez has filed a notice of appeal after he
pleaded guilty, pursuant to a plea bargain, to a series of charges arising out of three
separate criminal proceedings against him. We affirm.

FACTS AND PROCEDURAL HISTORY

A criminal complaint in Riverside County was filed on May 19, 2009. This complaint charged defendant with five separate charges: robbery (count 1), terrorist threats (count 2), assault with a firearm (count 3), assault with force likely to produce great bodily injury (GBI) (count 4), and gang participation (count 5). A gang enhancement was alleged as to counts 1 through 4. The complaint also alleged a GBI enhancement as to the robbery and assault with a firearm charges (counts 1 & 3). The complaint alleged firearm enhancements as to counts 1, 2 and 3.

In March 2010, the county filed an amended criminal complaint against defendant in a separate case. The second pleading alleged kidnapping in the commission of a carjacking (count 1), carjacking (count 3), kidnapping (count 4) and escape from county jail (count 7). (Other counts were alleged against codefendants.)

A third complaint was filed in June 2010, alleging a single felony count of possession of a weapon while in custody. The prosecutor later amended the complaint orally to allege a second count, possession of a dirk or dagger.

On December 30, 2010, the parties entered into a plea agreement with respect to all three cases. In the first case, defendant agreed to plead guilty to count 3 (assault with a firearm) and admit the gun enhancement, the GBI enhancement, and the gang enhancement. In the second case, defendant agreed to plead guilty to counts 3 (carjacking) and 7 (escape from county jail). In the third case, defendant pleaded guilty to the newly added count 2 (possession of a dirk or dagger). The remaining charges and enhancements were dismissed.

The court sentenced defendant as follows: In the first case, defendant was sentenced to the middle term of three years on the charge of assault with a firearm, plus three years for each of the admitted enhancements, for a total term of 12 years. The court imposed a restitution fine of \$200 and suspended a parole revocation fine in the same amount. Defendant was awarded 592 actual days of presentence custody credit and 88 days of conduct credit in connection with the first case. In the second case, the court imposed a prison term of five years on the carjacking count, to run concurrent to the 12-year sentence in the first case. The court imposed a sentence of eight months on the escape charge and ran that sentence consecutively to the sentence in the first case. The court imposed a separate restitution fine in the second case, again in the amount of \$200, and suspended a parole revocation fine of the same sum. Defendant was awarded 343 days of actual custody credit and 51 days of presentence conduct credit with respect to the second case. In the third case, the court imposed a term of two years imprisonment to run concurrently with the sentences in the first and second cases. A third restitution fine of \$200 was imposed, as well as a stayed parole revocation fine in the same amount. Defendant was awarded 188 days of actual custody credit plus 94 days of presentence conduct credit in connection with the third case.

Over a year after his guilty plea, defendant filed a motion in the trial court asking the court to reduce the three restitution fines that had been imposed based on defendant's alleged inability to pay. The court denied the motion. Defendant filed three timely notices of appeal (one in each case) from the court's order denying his motion.

ANALYSIS

We appointed appellate counsel for defendant. Counsel has filed a brief under *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case. The record is devoid of any specific facts regarding any of the offenses of which defendant was convicted. The matter arises solely upon the denial of a posttrial motion, i.e., the motion concerning defendant's ability to pay the restitution fines. (Pen. Code, § 1237, subd. (b).) Counsel has requested this court to undertake a review of the entire record.

We have also offered defendant the opportunity to file a personal supplemental brief, which he has not done. Under the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record, and we have not discovered any arguable issues on appeal.

DISPOSITION

The order after judgment is affirmed.

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McKINSTER

J.

We concur:

HOLLENHORST

Acting P. J.

RICHLI

J.